

REMARKS

Entry of the foregoing amendments, along with reconsideration of this application, are respectfully requested in view of the following remarks.

Claims 1-10, 17-23, 27-29, and 32-47 are Allowable Over the Cited Art

Claims 1-6, 8-10, 17, 27, and 34-36 were rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent Publication No. 2001/0029353 to Peterson (Peterson).

Claim 7 was rejected under 35 U.S.C. § 103(a) as being unpatentable over Peterson.

Claim 18 was rejected under 35 U.S.C. § 103(a) as being unpatentable over Peterson in view of U.S. Patent No. 4,498,902 to Ash et al. (Ash).

Claims 20 and 21 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Peterson in view of U.S. Patent No. 6,875,219 to Arramon et al. (Arramon).

Claims 19, 22, 23 and 28 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Peterson in view of PCT Publication No. WO 98/36785 to Stouder (Stouder).

Claims 29, 32, 33 and 37-41 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Peterson in view of U.S. Patent No. 5,695,475 to Best Jr. et al. (Best).

Claims 42 and 43 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Peterson in view of Best and further in view of Arramon.

Claims 44 and 45 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Peterson in view of Best and further in view of Stouder.

Claim 1 and its dependent claims are patentable

Independent claim 1 has been amended to recite, in part, “a wedge disposable within the lumen of the first hollow member for slidable movement therethrough between positions including a first position in which the wedge is disposed entirely within the lumen of the first hollow member and is spaced from the second hollow member and a second position in which the wedge is disposed entirely within the lumen of the first hollow member and contacts the first hollow member and second hollow member to wedge the members together to inhibit relative axial movement of the two members.” Peterson does not disclose or suggest such a medical device.

Specifically, the tube lock 132 of Peterson is placed within the upper portion 112a of the main body 112 to secure the inner flexible tube 115 within the main body 112. The tube lock 132 matingly fits within a tapered recess of the upper portion 112a and is not able to move between a first position and a second position in each of which the entire tube lock 132 is disposed within the main body 112. Accordingly, claim 1 and its dependent claims are patentable over Peterson.

In addition, although dependent claim 34 is patentable based on its dependence from claim 1, claim 34 is also patentable for the additional reason that Peterson (and the other cited references) does not disclose or suggest “a combined length of [a] first hollow member and [a] second hollow member is longer than a length of the first hollow member when the wedge is in its second position,” as recited in claim 34 as amended. Specifically, the flexible tube 115 of Peterson “fits within the channel of the elongated section 112b” of the main body 112 with “one end secured between a tube lock 132 and the upper portion 112a, and [the other] end secured at a location 123 near the end of the elongated section 112b.” (Peterson ¶ [0027]). Thus, a combined length of the main body 112 and the flexible tube 115 when the tube lock 132 is in position on the upper portion 112a is not longer than the length of the main body 112.

The Examiner asserts in the Advisory Action in regard to length limitations that deformation of the flexible tube 115 will alter the length of the device of Peterson. The Applicant respectfully submits that the Examiner is misplaced in her assertion. Peterson

discloses that the flexible tube 115 is radially collapsible/deformable within the main body 112. Peterson does not disclose that the flexible tube 115 deforms longitudinally such that it could alter the combined length of the flexible tube 115 and the main body 112. In fact, as discussed above, the flexible tube 115 is fixedly attached at its distal end to elongated section 112b of the main body 112, and therefore, cannot expand longitudinally to alter the length of the device. Accordingly, the Applicant respectfully submits that dependent claim 34 is patentable for this additional reason.

Furthermore, although new dependent claims 46-48 are patentable based at least upon their dependence from claim 1, claims 46-48 are also patentable for the additional reasons that Peterson (and the other cited references) does not disclose or suggest the limitations recited in claims 46-48. Specifically, claim 46 recites "the second hollow member has a first position with respect to the first hollow member and a second position with respect to the first hollow member, the second hollow member being configured to move between the first position and the second position when the wedge is in its first position." As discussed above, when the lock tube 132 of Peterson is secured to the upper portion 112a, the flexible tube 115 cannot be moved between a first position and a second position as recited in claim 46.

Claim 47 recites "the distal end of second hollow member is disposed apart from the first hollow member when the wedge is in the second position." As discussed above, the flexible tube 115 is fixedly attached within the channel of the elongated section 112, and therefore a distal end of the flexible tube 115 is not disposed apart from the main body 112 when the lock tube 132 is secured to the upper portion 112a. Lastly, claim 48 recites "at least a portion of the second hollow member extends distally from the distal end of the first hollow member when the wedge is in its second position." For similar reasons as discussed for claim 47, no portion of the flexible tube 115 extends distally from the distal end of the main body 112 when the lock tube 132 is secured to the upper portion 112a. Accordingly, the Applicant respectfully submits that dependent claims 47 and 48 are patentable for the above additional reasons.

Claim 29 and its dependent claims are patentable

Independent claim 29 has been amended to recite “a second hollow member in adjustable communication with the first hollow member for extending the unobstructed passageway provided in part by the first hollow member to a predetermined internal location beyond a distal end of the first hollow member.” Neither Peterson nor Best, alone or combined, disclose or suggest such a medical device.

Specifically, when the main body 112 is disposed within the outer adjustment sleeve 116 of Peterson, the main body 112 cannot extend distally from a distal end of the adjustment sleeve 116 such that a passageway provided in part by the outer adjustment sleeve 116 can extend beyond the outer adjustment sleeve 116. Similarly, Best discloses that the inner sleeve 13 can be disposed within and locked to outer sleeve 12. Best does not disclose that a passageway provided in part by the outer sleeve 12 can extend beyond a distal end of the outer sleeve 112. Accordingly, the Applicant respectfully submits that independent claim 29, and its dependent claims, are patentable.

CONCLUSION


The Applicant believes that a full and complete response has been made to the outstanding Office Action and, as such, the present application is in condition for allowance. If the Examiner believes, for any reason, that personal communication will expedite prosecution of this application, the Examiner is invited to telephone the undersigned at the number provided.

Prompt and favorable consideration of this application is respectfully requested.

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